

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephanie Dukich	Team: Squad #8	CCRB Case #: 202104241	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 07/10/2021 6:17 AM	Location of Incident: § 87(2)(b)	Precinct: 101	18 Mo. SOL 1/10/2023	EO SOL 1/10/2023	
Date/Time CV Reported Mon, 07/19/2021 11:08 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 07/19/2021 11:08 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO Christophe Ghee	16192	944591	101 PCT
2. PO Anthony Zanfardino	02036	964848	101 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Galen Jansky	31838	954972	101 DET
2. Officers			
3. POM James Cameron	26948	966978	101 PCT
4. POF Brittany Brown	21158	967786	101 PCT
5. POM Christophe Ponce	30561	965422	101 PCT
6. POM Alan Schatz	27125	946225	101 PCT
7. SGT Louie Malave	03690	943511	101 PCT
8. POM Pargat Singh	16821	961293	101 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Christophe Ghee	Abuse: Police Officer Christopher Ghee entered § 87(2)(b).	§ 87(2)(b)
B. PO Anthony Zanfardino	Abuse: Police Officer Anthony Zanfardino entered § 87(2)(b).	§ 87(2)(b)

Case Summary

On July 19, 2021, § 87(2)(b) filed the following complaint via the CCRB's online website.

On July 10, 2021, at 6:17 a.m., Police Officer Christopher Ghee and Police Officer Anthony Zanfardino, both from the 101st Precinct, entered § 87(2)(b)'s room, located at § 87(2)(b) in Queens, without her permission and handcuffed her (**Allegations A and B: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) was transported to the 101st Precinct and processed.

Body-worn camera (BWC) footage from PO Ghee, PO Zanfardino, Police Officer Brittany Brown, Police Officer Alan Schatz, Police Officer Christopher Ponce, and Police Officer James Cameron, all from the 101st Precinct, was obtained by the investigation (Board Review 01).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Christopher Ghee entered § 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Anthony Zanfardino entered § 87(2)(b)

It is undisputed that § 87(2)(b) let PO Ghee and PO Zanfardino inside of his apartment, located at § 87(2)(b) in Queens and that both officers entered § 87(2)(b)'s room, which is inside that apartment, without her consent.

§ 87(2)(b) testified to the CCRB on July 23, 2021, that on June 25, 2021, she had a dispute with her landlord and roommate § 87(2)(b) in the two-bedroom apartment they share, located at § 87(2)(b). § 87(2)(b) has rented a room in the apartment for three years but is not on the lease. § 87(2)(b) and § 87(2)(b) had a loud argument by the threshold door, during which § 87(2)(b) pushed the door into § 87(2)(b)'s shoulder. § 87(2)(b) called 911 and the police arrived with EMS. EMS took § 87(2)(b) to the hospital for her shoulder, where she received Ibuprofen. § 87(2)(b) did not sustain any injuries from the incident. § 87(2)(b) never told § 87(2)(b) that he was planning to call the police on her and hardly interacted with her since the incident.

On July 10, 2021, at around 6:17 a.m., § 87(2)(b) was sitting on her bed in her nightgown getting ready for work. The door of § 87(2)(b)'s room was wide open. Her room is directly across from the entrance into the apartment. § 87(2)(b) did not hear a knock or any kind of announcement, but she saw § 87(2)(b) open the door of the apartment and then let in around six officers. Without her consent, and without requesting her permission, five or six of the officers walked into her room. PO Ghee spoke with § 87(2)(b) while the other officers stood around them. The officers did not search her room or her belongings.

PO Ghee asked her if she was "§ 87(2)(b)", to which § 87(2)(b) responded that she was. PO Ghee then told her to stand up because § 87(2)(b) called the police about an open investigation into a criminal complaint involving charges of assault and vandalism against § 87(2)(b). § 87(2)(b) asked PO Ghee if he had a warrant or any documentation, and he answered that he did not. PO Ghee then told § 87(2)(b) that she was under arrest, handcuffed her, and led her out of the apartment. The officers were inside of her apartment for less than 20 minutes.

In the hallway, PO Ghee told her that § 87(2)(b) called the police at around 6:00 a.m. As § 87(2)(b) was still in her nightgown and her slippers, PO Ghee asked if he could go back inside of her apartment to get her something to wear, and she consented. PO Ghee brought § 87(2)(b) her work

uniform. § 87(2)(b) was then transported to the 101st precinct. At around 9:00 a.m., Detective Galen Jansky of the 101st Precinct Detective Squad fingerprinted her and took her photograph. § 87(2)(b) was then transported to Queens Central Booking (Board Review 02).

On June 26, 2021, § 87(2)(b) filed a complaint report § 87(2)(b) against § 87(2)(b) regarding an incident that occurred on June 25, 2021. On July 10, 2021, § 87(2)(b) filed complaint report § 87(2)(b) against § 87(2)(b) regarding an incident that occurred on June 25, 2021 (Board Review 05).

In PO Ghee's BWC from the incident, PO Ghee stands in § 87(2)(b)'s bedroom. He faces § 87(2)(b) who sits on the corner of her bed, approximately ten feet away from him. At 1:07, PO Ghee asks her to put some "pants or shorts on or something," to which § 87(2)(b) replies that she is not doing that because she is getting dressed for work, she has not bothered "this man," and she pays him rent. She asks them if they have a warrant and PO Ghee says that they do not need a warrant to come into the house that he lives in. PO Ghee says, "Come on, step over here" and § 87(2)(b) refuses. At 1:50, PO Ghee takes § 87(2)(b)'s right hand with his right hand and tells her to put her hands behind her back, and she says, "For what?" PO Zanfardino approaches her and takes both of her hands with both of his hands. PO Ghee and PO Zanfardino handcuff her. PO Ghee says that there is an open complaint against her and asks her to step out into the hallway.

§ 87(2)(b) complies and exits her apartment into the hallway at 3:15. PO Brown pats her down. She asked PO Ghee what he called 911 for, and he tells her that he called about a past crime. At 4:20, PO Ghee enters § 87(2)(b)'s room again and gets a top and pants. PO Ghee tells her that none of them are going to be her arresting officer because "it was open," and that the officers will explain everything to her at the precinct. She asks the officers at 6:07 who invited the officers inside, and PO Ghee says that "He did."

PO Ghee goes back inside of the apartment and at 8:27, he knocks on § 87(2)(b) door. PO Ghee tells him that if this arrest goes through, the detective will call him, the ADA will call him, and that he should let the ADA know that he wants an order of protection. PO Ghee leaves the apartment at 9:15 and walks down the hallway, where § 87(2)(b) already walks down the hall with other officers (Board Review 01).

In 911 communications audio from the incident, § 87(2)(b) calls the police and says that he made a report on someone and that they are now back in his house. The audio is muffled and much of what he says is inaudible. He provides his address and says that someone (inaudible) broke his property, put a hole in his room door, and that he already filed a police report. He says that she is supposed to be arrested and not in his house. The operator asked if she showed up again and § 87(2)(b) says yes, that she is there when she is not supposed to be there. § 87(2)(b) says that she is outside. He provides § 87(2)(b)'s name to the operator. § 87(2)(b) does not know what she is wearing, but he hears her outside and that he is scared to leave his room. § 87(2)(b) provides his phone number and his name (Board Review 03).

In the radio communications audio from the incident, Central calls for 100 Adam and relates that there is an open UF61 in the 101st Precinct for a past crime at § 87(2)(b). PO1 says something inaudible and Central says, "I know, I'm checking it now." At 11:14, the operator requests for a 101st Precinct sergeant and lets him know that Adam is requesting a sergeant to § 87(2)(b). At 20:30 Central requests the 101 Precinct sergeant., and the sergeant relates "10-84" (Board Review 03).

A request for an I-Card for § 87(2)(b) was returned with negative results (Board Review 06).

On October 13, 2021, PO Ghee testified to the CCRB that on July 10, 2021, at around 6:17 a.m., he and PO Zanfardino received a radio run for a call made by § 87(2)(b) with regards to a perpetrator for a previous crime. PO Ghee did not recall what the crime was, nor whether he received any other information at that time. He did not recall learning whether § 87(2)(b) stated that there was a threat or a potential emergency at the location. PO Ghee did not recall whether he learned that there were any weapons at the location. Neither PO Ghee or PO Zanfardino conducted any database searches into the incident nor the people involved prior to arriving at the location.

PO Ghee and PO Zanfardino arrived at the location a few minutes after receiving the call. PO Ghee did not recall whether § 87(2)(b) came outside into the hallway to speak with the officers, or if he knocked on the door before § 87(2)(b) opened it and spoke with them in the doorway. § 87(2)(b) explained to PO Ghee that § 87(2)(b) committed a crime against him in the apartment in the past for which he previously made a report and that he spoke with a detective about her being arrested for it. § 87(2)(b) stated that § 87(2)(b) was inside of the apartment, then let the officers inside the apartment by moving out of the way. PO Ghee entered the apartment with other officers, though he could not recall who.

Inside of the apartment, PO Ghee checked the police database and learned that there was an open UF61 and one or more I-Cards for § 87(2)(b) though he did not recall which officer conducted the search. PO Ghee did not recall learning anything else about the nature of the past crime nor did he recall any details about the I-Cards against § 87(2)(b). He did not recall learning anything about the relationship between the two individuals other than that § 87(2)(b) lived there. To PO Ghee's knowledge, the two individuals were alone in the apartment. Based on the outstanding I-Cards, PO Ghee believed that he had probable cause to arrest § 87(2)(b). He did not observe any weapons in the apartment nor any injuries on § 87(2)(b). He did not observe anything that indicated an emergency. PO Ghee did not recall whether § 87(2)(b) expressed any safety concerns about being alone in the apartment with § 87(2)(b).

§ 87(2)(b) told PO Ghee that § 87(2)(b) was inside her room which was almost directly across from the door through which PO Ghee entered the apartment. PO Ghee approached § 87(2)(b)'s door, which was closed, and knocked a few times. Once nobody responded or said anything through the door, he knocked again. PO Ghee heard someone moving around inside so he announced himself at the door, though he did not recall exactly what he said. PO Ghee then opened the door, which was unlocked, and entered the room. PO Ghee entered § 87(2)(b)'s room to arrest § 87(2)(b) based on his belief that he had probable cause to arrest her. No supervisor issued him instructions to do so. Once he entered the room, he told § 87(2)(b) that she was under arrest. § 87(2)(b) told the officers that she was a resident in that apartment. PO Ghee explained that she was being arrested for a previous crime, and that she would have to come with the officers, however § 87(2)(b) did not listen to him. PO Ghee handcuffed § 87(2)(b) with the help of other officers and brought her outside into the hallway. § 87(2)(b) wore a nightgown, so PO Ghee went back inside of her room at that point and retrieved some clothing for § 87(2)(b). § 87(2)(b) asked PO Ghee to lock her door, so he pressed a lock button on the doorknob on the interior side of the room. Before he left the apartment, he spoke with § 87(2)(b) and let him know that a private number may be contacting him to update him on the status of the arrest. The officers were with § 87(2)(b) inside of her room for several minutes. PO Ghee then walked out of the apartment and brought § 87(2)(b) downstairs with the help of other officers.

PO Ghee did not have any contact with the detective who had an open I-Card out for § 87(2)(b) and did not know whether any other officer who responded to the location did either. PO Ghee did not request identification from § 87(2)(b) nor § 87(2)(b) at any point, nor did he confirm the address of

either individual through any other means. He stated that an I-Card sometimes contains that information, but he did not believe that § 87(2)(b)'s residence was listed on the I-Card (Board Review 07).

PO Zanfardino testified on November 4, 2021, that on July 10, 2021, at 6:02 a.m., he and PO Ghee received a radio run that came over as a "10-68: see complainant." § 87(2)(b) called and stated that § 87(2)(b) committed a crime approximately a week prior, of which he was the victim, and that she was wanted by the police. PO Zanfardino was not related the details of that crime. When PO Zanfardino viewed the job on the computer, he saw § 87(2)(b)'s name and that § 87(2)(b) had an I-Card out for her arrest. PO Zanfardino clarified that when a job comes over, an officer can click on the address, at which point the database displays all active I-Cards for residents there. PO Zanfardino recalled learning that § 87(2)(b)'s was the only name that came up as wanted in the apartment for a crime she committed against § 87(2)(b). PO Ghee called the 101st Precinct and confirmed that the I-Card was still active. PO Zanfardino is not sure who PO Ghee spoke with at the precinct to verify this, nor did he know whether the name of a detective was listed on the I-Card. Once PO Ghee confirmed that the I-Card was still active, PO Zanfardino determined that he had probable cause to arrest § 87(2)(b).

Within ten minutes, PO Zanfardino and PO Ghee arrived at the location, where they encountered § 87(2)(b) in the doorway of his apartment. § 87(2)(b) opened the door and invited the officers inside. § 87(2)(b)'s room door was closed but § 87(2)(b) let the officers know that § 87(2)(b) was inside of her room. § 87(2)(b) did not let PO Zanfardino know about any crime in progress and PO Zanfardino did not see any injuries on § 87(2)(b). PO Zanfardino did not learn what prompted § 87(2)(b) to call 911 when he did, aside from the reason that § 87(2)(b) was wanted for a past crime and PO Zanfardino was afraid. § 87(2)(b)'s tone and demeanor was very agitated, and he said that he wanted § 87(2)(b) out of the apartment. PO Zanfardino did not recall whether § 87(2)(b) related any specific safety concerns to the officers with regards to § 87(2)(b). PO Zanfardino did not learn any details regarding the nature of the past crime. PO Zanfardino did not learn about the relationship between § 87(2)(b) and § 87(2)(b) at any point. PO Zanfardino learned that § 87(2)(b) lived in the apartment, though he never learned who was on the lease nor did he request any documentation confirming either § 87(2)(b) or § 87(2)(b)'s identity.

After remaining in the living room area for a couple of minutes, PO Zanfardino and PO Ghee approached § 87(2)(b)'s room and knocked on the door. They announced themselves as the police a few times. There was no response, though PO Zanfardino heard talking from within the bedroom, indicating that § 87(2)(b) was inside. PO Zanfardino did not recall speaking with § 87(2)(b) prior to entering her room. PO Zanfardino stated that § 87(2)(b) never explicitly gave either officer permission to enter § 87(2)(b)'s room.

PO Zanfardino and PO Ghee then opened the door, which was unlocked. PO Zanfardino did not recall who made the decision to enter and stated that his only reason for entering § 87(2)(b)'s room was the open I-Card, which gave him probable cause to arrest her. § 87(2)(b) was sitting on her bed in her room and appeared to be talking on the phone. Both officers asked her to stand up because she was getting arrested for a previous crime. Additional officers arrived at the location and entered the room, though PO Zanfardino did not remember who they were. None of the officers did anything else other than speak with § 87(2)(b) and wait for her to be arrested. PO Zanfardino did not see any weapons or anything inside of § 87(2)(b)'s room that indicated to him that there was a crime in progress or an emergency.

PO Zanfardino stated that based on his understanding, he could not have entered the apartment with an open I-Card alone and required § 87(2)(b) consent to enter the apartment. PO Zanfardino and

other officers handcuffed § 87(2)(b) and took her back to the 101st Precinct, where she was processed (Board Review 08).

In *People v Ponto*, 103 AD2d 573, 578, 480 NYS2d 921 (1984), the court affirmed the suppression of physical evidence obtained from a warrantless search because the landlord lacked authority to consent, and defendant had “an expectation of privacy in his leased living space” (Board Review 09).

Payton v. New York, 445 U. S. 573, 585, 587, 100 S. Ct. 1371, 63 L. Ed. 2d 639 (1980) held that “absent exigent circumstances, officers may not enter a home to make an arrest without a warrant, even when they have probable cause.” The Court held that to be arrested in the home “involved not only the invasion attendant to all arrests, but also an invasion of the sanctity of the home, which was too substantial, absent exigent circumstances, even when it was accomplished under statutory authority and when probable cause was present.” Given probable cause to arrest and a reasonable belief that the suspect is in his home, exigent circumstances for a warrantless and nonconsensual entry into a suspect's home to effect this arrest exist when “a reasonably prudent man in the circumstances would be warranted in the belief that delaying arrest to secure the warrant would pose a significant risk of danger to life or property, of the escape of the suspect, or of the destruction of evidence” (Board Review 10)

United States v. Martinez-Gonzalez, 686 F.2d 93, 99 (2d Cir. 1982) ruled that “provided that there is probable cause, the police may proceed without a warrant to effectuate an arrest within a home if exigent circumstances exist to justify a warrantless entry.” Given that probable cause is present, the following criteria must be evaluated to determine whether exigent circumstances exist: “(1) the gravity or violent nature of the offense with which the suspect is to be charged; (2) whether the suspect is reasonably believed to be armed; (3) strong reason to believe that the suspect is in the premises being entered; (4) a likelihood that the suspect will escape if not swiftly apprehended; and (5) the peaceful circumstances of the entry” (Board Review 11).

In *People v. Mitchell*, 39 NY2d 173, 347 N.E.2d 607, 383 N.Y.S.2d 246 (1976) the New York Court of Appeals ruled that for a warrantless entry to be justified as an “emergency” under the “emergency doctrine,” “(1) The police must have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property; 2) The search must not be primarily motivated by intent to arrest and seize evidence; and 3) There must be some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched” (Board Review 12).

While PO Ghee did not recall the details of the living arrangement, PO Zanfardino understood that § 87(2)(b) lived in a private room within the apartment that she shared with § 87(2)(b). Both officers stated that § 87(2)(b)'s room door was closed, which indicated a level of privacy. Furthermore, both PO Ghee and PO Zanfardino testified that there appeared to be no emergency or exigent circumstances when they arrived at the apartment. Though they observed an open UF61 and active I-Cards for § 87(2)(b), neither officer confirmed whether either document indicated that § 87(2)(b) committed a violent crime against § 87(2)(b) nor whether she had a violent history. While § 87(2)(b) told the 911 operator that he was afraid, and PO Zanfardino testified that § 87(2)(b) appeared to be afraid of § 87(2)(b), neither officer asked for nor obtained any additional information about whether § 87(2)(b) needed immediate assistance for the protection of his life or property. Lastly, both PO Ghee and PO Zanfardino asserted that the reason they entered § 87(2)(b)'s room was based on their belief that an open I-Card gave them probable cause to arrest her. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- PO Ghee has been a member of service for 14 years and has been a subject in 11 CCRB complaints and 22 allegations, none of which were substantiated. § 87(2)(g)
- PO Zanfardino has been a member of service for four years and has been a subject in two other CCRB complaints and one other allegation, which was not substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of November 15, 2021, a Notice of Claim FOIL request was filed through the comptroller's office. The results are pending (Board Review 13).

- § 87(2)(b)

Squad: 8

Investigator:	<u>Stephanie Dukich</u>	<u>Inv. Stephanie Dukich</u>	<u>November 16, 2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Ethan De Angelo</u>	<u>IM Ethan De Angelo</u>	<u>November 17,</u>
2021	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date